

## DECISION

THE COMPTROLLER GENERAL  
OF THE UNITED STATES

WASHINGTON, D.C. 20548

*[Claim for Lodging Expenses Incurred While Occupying temporary Quarters Incident to transfer]* 9915

FILE: B-193331

DATE: April 25, 1979

MATTER OF: James W. Clark

- DIGEST:
- (1) Employee claims temporary quarters subsistence expenses for lodging furnished by a relative. Employing agency determined expenses to be unreasonable since burden is on employee to furnish sufficient information to prove reasonableness and none was received by the agency. In submitting claim to GAO employee presented, for the first time, an itemized list of his lodging expenses. While it is the responsibility of the employing agency, in the first instance, to insure that expenses are reasonable, GAO has the authority and duty to review the circumstances of each case submitted here and make an independent determination of the reasonableness of the claimed expenses.
  - (2) *the* Portion of employee's claim for temporary quarters subsistence expenses while staying with relatives based on increased use of host's utilities ~~was~~ allowed, since it is reasonable in light of the surrounding circumstances.
  - (3) *the* Portion of employee's claim for temporary quarters subsistence expenses based on expenditures for snacks in addition to regular meals may not be reimbursed, since they ~~are~~ are not necessary expenses of subsistence.
  - (4) *the agency's regulations* Portion of employee's claim for temporary quarters subsistence expenses based on transportation expenses incurred as a result of increased use of host's automobile may not be reimbursed, in light of para. 2-5.4b of the Federal Travel Regulations (FPMR 101-7) (May 1973), which excludes expenses of local transportation.

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- (5) Portion of employee's claim for temporary quarters subsistence expenses based on labor performed by hosts in taking care of claimant's wife and child may not be reimbursed since there is no evidence to substantiate the amount claimed and since child-care fees may not be reimbursed under the Federal Travel Regulations.

By letter dated August 27, 1978, Mr. James W. Clark, an employee of the United States Internal Revenue Service (IRS) in Mobile, Alabama, has appealed the action of our Claims Division which by settlement dated August 7, 1978, disallowed his claim for lodging expenses incurred while occupying temporary quarters incident to a transfer.

The record shows that Mr. Clark, with his wife and 9 month old child, took up residence at the home of his mother-and father-in-law in Mobile, Alabama, his new duty station, for the period March 16, through April 14, 1977. The travel voucher indicates that Mr. Clark claimed \$600 for lodging expenses at a flat rate of \$20 per day. Mr. Clark explained that the \$20 rate was agreed upon after he had surveyed the lodging costs at three separate commercial establishments in the Mobile area. He points out that this rate was 20 percent less than comparative costs from commercial facilities and was not paid in a decreasing rate or fashion.

Relying on Matter of Barry A. Smith, B-184946, March 10, 1976, and 52 Comp. Gen. 78 (1972), the IRS determined the lodging expenses claimed to be unreasonable. The IRS, however, did offer reconsideration if Mr. Clark furnished a statement detailing the actual additional expenses incurred by his relatives in operating the household due to his presence. Our Claims Division concurred in this reasoning.

Pursuant to 5 U.S.C. § 5724a (1976), section 2-5.4 of the Federal Travel Regulations, (FTR) (FPMR 101-7, May 1973, authorizes, under proper circumstances, the payment of subsistence expenses of an employee and his immediate family while occupying temporary quarters, when the employee is transferred to a new official station. This regulation requires reimbursement only for actual

subsistence expenses incurred, provided they are reasonable as to amount. While reimbursement for charges for lodging and related services supplied by relatives may be allowable, we have consistently held that what is reasonable depends upon the circumstances of each case.

In determining what is reasonable factors such as an increase in the use of the host's utilities, the hiring of extra help, and the costs incurred by the relative are to be taken into consideration. The onus is on the claimant to provide sufficient information to enable the employing agency to determine the reasonableness of his claim, and it is not enough to show that the amount is less than the commercial rate or the maximum allowable under the regulations. Matter of Richard W. Metzler, B-191673, December 5, 1978; Matter of J. William Laude, B-189800, December 29, 1977; Matter of Barry A. Smith, supra; 52 Comp. Gen. 78, supra.

In his appeal to our Office Mr. Clark, for the first time, has submitted an itemized list of lodging expenses, totaling \$570, incurred during the time period in question. We have consistently held that it is the responsibility of the employing agency, in the first instance, to insure that expenses are reasonable. 55 Comp. Gen. 1107 (1976). Our Office, however, has the authority and duty to review the circumstances of each case submitted here and make an independent determination of the reasonableness of the claimed expenses.

In his itemized list of lodging expenses Mr. Clark enumerates 4 major areas for which he seeks reimbursement. These are: (1) electricity and water; (2) food, drinks and snacks; (3) transportation; and (4) labor performed by his relatives to care for his wife and child.

As was previously stated, one of the factors includable is an increase in the cost of the host's utilities. The amount (\$30) Mr. Clark has stated his relative's electricity and water costs increased appears reasonable considering the increase in the number of people occupying the residence. Therefore, we have no objection to reimbursing Mr. Clark for this amount. See: Matter of Richard E. Nunn, B-191401, December 27, 1978; Matter of Gordon S. Lind, B-182135, November 7, 1974.

With respect to Mr. Clark's claim for reimbursement for food, drinks and snacks above and beyond expenses already claimed as meals, it is clear from reading the appropriate regulations that only actual and necessary expenses of subsistence are reimbursable. See: para. 1-8.1a of the FTR. Also, we have held that the regulations contemplate reimbursement only for items essential or indispensable to subsistence. B-164366, August 16, 1968. Thus, we have previously determined that expenditures for food not consumed as part of the regular meal are not necessary expenses of subsistence. B-167280, October 7, 1969. It follows, then, that snacks, however documented, are not necessary expenses and, therefore, may not be reimbursed. Matter of Bennie L. Pierce, B-185826, May 28, 1976.

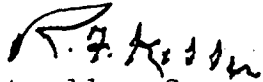
The portion of Mr. Clark's claim attributable to transportation expenses due to increased travel to grocery stores, other shopping areas, and doctor's offices is also denied. Paragraph 2-5.4b of the FTR specifically states that "[e]xpenses of local transportation incurred for any purpose during occupancy of temporary quarters shall be disallowed."

The last area for consideration is the portion of Mr. Clark's claim for reimbursement for the labor performed by his relatives to care for his wife and child. Mr. Clark indicates that due to certain medical problems, Mrs. Clark was unable to perform certain tasks and, for this reason, his wife's parents expended a considerable amount of labor that would otherwise have been expended by his wife. In arriving at the total expense for labor Mr. Clark estimates that his wife's parents expended an average of 3 hours per day and that their time and labor was worth \$5 per hour. Mr. Clark has not supplied us with any evidence to substantiate this figure. Moreover, fees for child-care may not be allowed under the provisions of the Federal Travel Regulations. Matter of Michael W. College, B-180623, August 14, 1974. Thus, Mr. Clark's claim for the labor performed by his relatives is denied.

Accordingly, Mr. Clark's claim for lodging expenses is allowed to the extent that he may be reimbursed for the amount expended as a result of the increased use of his host's utilities. Settlement will issue for that amount

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in due course. The disallowance of the remainder of the claim is sustained. Concerning Mr. Clark's request as to rights of further appeal, he is advised that the decisions of the Comptroller General of the United States rendered on claims settled by the General Accounting Office, are conclusive upon the executive branch of the Government. See 31 U.S.C. 74. Independent of the jurisdiction of the General Accounting Office, however, the United States Court of Claims and the United States District Courts have jurisdiction to consider certain claims against the Government if suit is filed within 6 years after the claim first accrued. See 28 U.S.C. § 1346(a)(2), 1491, 2401, and 2501.

  
Deputy Comptroller General  
of the United States